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LRB094 04965 BDD 41884 a

1 AMENDMENT TO HOUSE BILL 254

2 AMENDMENT NO. _____. Amend House Bill 254 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Children and Family Services Act is amended
5 by changing Section 9.4 as follows:

6 (20 ILCS 505/9.4) (from Ch. 23, par. 5009.4)

7 Sec. 9.4. Investigation; waiver; ~~and~~ determination. The
8 Department shall review the forms or questionnaires returned by
9 each parent or guardian and supplement the information provided
10 therein, where required, by such additional consultations with
11 the parent or guardian and such other investigations as may be
12 necessary and, applying the standard and regulations
13 established by the Department, shall determine whether and the
14 extent to which, the parent or guardian individually or
15 together in any combination, are reasonably able to provide
16 parental payment for care and training of their children.

17 The Department, by rule, may conduct periodic or other
18 reinvestigations and redeterminations of the financial ability
19 of parents or guardians. Any redeterminations shall have the
20 effect of altering, amending, or modifying previous
21 determinations. However, any redetermination which established
22 liability for parental payment of reimbursement, or which
23 increases the support or reimbursement liability specified in a
24 prior order, shall be subject to the provisions of Section 9.9

1 in the administrative and judicial review procedures herein
2 provided for original orders.

3 The Department, by rule, must grant a waiver for future and
4 past parental payments to:

5 (1) a parent or guardian who regains custody where
6 payment would cause a hardship to the family;

7 (2) a parent or guardian who is making reasonable
8 efforts and reasonable progress to regain custody of the
9 child, where payment would impede reunification; or

10 (3) a parent or guardian of a child who was adjudicated
11 dependent under subsection (c) of Section 2-4 of the
12 Juvenile Court Act of 1987 solely because the child was
13 without proper medical or other remedial care recognized
14 under State law or other care necessary for his or her
15 well-being through no fault, neglect, or lack of concern by
16 his or her parents, guardian, or custodian.

17 No later than January 1, 2006, the Department shall file a
18 proposed rule or a proposed amendment to an existing rule
19 setting out the procedures for applying for a waiver and the
20 standards for determining eligibility.

21 (Source: P.A. 83-1037.)

22 Section 10. The Juvenile Court Act of 1987 is amended by
23 changing Section 2-18 as follows:

24 (705 ILCS 405/2-18) (from Ch. 37, par. 802-18)

25 Sec. 2-18. Evidence.

26 (1) At the adjudicatory hearing, the court shall first
27 consider only the question whether the minor is abused,
28 neglected or dependent. The standard of proof and the rules of
29 evidence in the nature of civil proceedings in this State are
30 applicable to proceedings under this Article. If the petition
31 also seeks the appointment of a guardian of the person with
32 power to consent to adoption of the minor under Section 2-29,

1 the court may also consider legally admissible evidence at the
2 adjudicatory hearing that one or more grounds of unfitness
3 exists under subdivision D of Section 1 of the Adoption Act.

4 (2) In any hearing under this Act, the following shall
5 constitute prima facie evidence of abuse or neglect, as the
6 case may be:

7 (a) proof that a minor has a medical diagnosis of
8 battered child syndrome is prima facie evidence of abuse;

9 (b) proof that a minor has a medical diagnosis of
10 failure to thrive syndrome is prima facie evidence of
11 neglect;

12 (c) proof that a minor has a medical diagnosis of fetal
13 alcohol syndrome is prima facie evidence of neglect;

14 (d) proof that a minor has a medical diagnosis at birth
15 of withdrawal symptoms from narcotics or barbiturates is
16 prima facie evidence of neglect;

17 (e) proof of injuries sustained by a minor or of the
18 condition of a minor of such a nature as would ordinarily
19 not be sustained or exist except by reason of the acts or
20 omissions of the parent, custodian or guardian of such
21 minor shall be prima facie evidence of abuse or neglect, as
22 the case may be;

23 (f) proof that a parent, custodian or guardian of a
24 minor repeatedly used a drug, to the extent that it has or
25 would ordinarily have the effect of producing in the user a
26 substantial state of stupor, unconsciousness,
27 intoxication, hallucination, disorientation or
28 incompetence, or a substantial impairment of judgment, or a
29 substantial manifestation of irrationality, shall be prima
30 facie evidence of neglect;

31 (g) proof that a parent, custodian, or guardian of a
32 minor repeatedly used a controlled substance, as defined in
33 subsection (f) of Section 102 of the Illinois Controlled
34 Substances Act, in the presence of the minor or a sibling

1 of the minor is prima facie evidence of neglect. "Repeated
2 use", for the purpose of this subsection, means more than
3 one use of a controlled substance as defined in subsection
4 (f) of Section 102 of the Illinois Controlled Substances
5 Act;

6 (h) proof that a newborn infant's blood, urine, or
7 meconium contains any amount of a controlled substance as
8 defined in subsection (f) of Section 102 of the Illinois
9 Controlled Substances Act, or a metabolite of a controlled
10 substance, with the exception of controlled substances or
11 metabolites of those substances, the presence of which is
12 the result of medical treatment administered to the mother
13 or the newborn, is prime facie evidence of neglect;

14 (i) proof that a minor was present in a structure or
15 vehicle in which the minor's parent, custodian, or guardian
16 was involved in the manufacture of methamphetamine
17 constitutes prima facie evidence of abuse and neglect.

18 (3) In any hearing under this Act, proof of the abuse,
19 neglect or dependency of one minor shall be admissible evidence
20 on the issue of the abuse, neglect or dependency of any other
21 minor for whom the respondent is responsible.

22 (4) (a) Any writing, record, photograph or x-ray of any
23 hospital or public or private agency, whether in the form of an
24 entry in a book or otherwise, made as a memorandum or record of
25 any condition, act, transaction, occurrence or event relating
26 to a minor in an abuse, neglect or dependency proceeding, shall
27 be admissible in evidence as proof of that condition, act,
28 transaction, occurrence or event, if the court finds that the
29 document was made in the regular course of the business of the
30 hospital or agency and that it was in the regular course of
31 such business to make it, at the time of the act, transaction,
32 occurrence or event, or within a reasonable time thereafter.
33 Any portion of a document that contains an opinion as to a
34 respondent's ability to care for the minor or the minor's bond

1 to the respondent is not admissible under this Section unless
2 the individual who authored that opinion testifies as to that
3 opinion. A certification by the head or responsible employee of
4 the hospital or agency that the writing, record, photograph or
5 x-ray is the full and complete record of the condition, act,
6 transaction, occurrence or event and that it satisfies the
7 conditions of this paragraph shall be prima facie evidence of
8 the facts contained in such certification. A certification by
9 someone other than the head of the hospital or agency shall be
10 accompanied by a photocopy of a delegation of authority signed
11 by both the head of the hospital or agency and by such other
12 employee. All other circumstances of the making of the
13 memorandum, record, photograph or x-ray, including lack of
14 personal knowledge of the maker, may be proved to affect the
15 weight to be accorded such evidence, but shall not affect its
16 admissibility.

17 (b) Any indicated report filed pursuant to the Abused and
18 Neglected Child Reporting Act shall be admissible in evidence.

19 (c) Previous statements made by the minor relating to any
20 allegations of abuse or neglect shall be admissible in
21 evidence. However, no such statement, if uncorroborated and not
22 subject to cross-examination, shall be sufficient in itself to
23 support a finding of abuse or neglect.

24 (d) There shall be a rebuttable presumption that a minor is
25 competent to testify in abuse or neglect proceedings. The court
26 shall determine how much weight to give to the minor's
27 testimony, and may allow the minor to testify in chambers with
28 only the court, the court reporter and attorneys for the
29 parties present.

30 (e) The privileged character of communication between any
31 professional person and patient or client, except privilege
32 between attorney and client, shall not apply to proceedings
33 subject to this Article.

34 (f) Proof of the impairment of emotional health or

1 impairment of mental or emotional condition as a result of the
2 failure of the respondent to exercise a minimum degree of care
3 toward a minor may include competent opinion or expert
4 testimony, and may include proof that such impairment lessened
5 during a period when the minor was in the care, custody or
6 supervision of a person or agency other than the respondent.

7 (5) In any hearing under this Act alleging neglect for
8 failure to provide education as required by law under
9 subsection (1) of Section 2-3, proof that a minor under 13
10 years of age who is subject to compulsory school attendance
11 under the School Code is a chronic truant as defined under the
12 School Code shall be prima facie evidence of neglect by the
13 parent or guardian in any hearing under this Act and proof that
14 a minor who is 13 years of age or older who is subject to
15 compulsory school attendance under the School Code is a chronic
16 truant shall raise a rebuttable presumption of neglect by the
17 parent or guardian. This subsection (5) shall not apply in
18 counties with 2,000,000 or more inhabitants.

19 (6) In any hearing under this Act, the court may take
20 judicial notice of prior sworn testimony or evidence admitted
21 in prior proceedings involving the same minor if (a) the
22 parties were either represented by counsel at such prior
23 proceedings or the right to counsel was knowingly waived and
24 (b) the taking of judicial notice would not result in admitting
25 hearsay evidence at a hearing where it would otherwise be
26 prohibited.

27 (Source: P.A. 93-884, eff. 1-1-05.)".